



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JUL 29 2004

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

VIA FACSIMILE #801-457-5458

Mr. Lee J. Peacock
President
Utah Petroleum Association
275 East South Temple, Suite 150
Salt Lake City, UT 84111

Re: Request for Exercise of Enforcement Discretion for Utah County, Utah
Oxygenated Fuel Program

Dear Mr. Peacock:

I am writing in response to your May 7, 2004 letter to the U.S. Environmental Protection Agency (EPA) concerning the State of Utah's wintertime oxygenated gasoline program and the Environmental Protection Agency (EPA) Region 8's request that the Office of Enforcement and Compliance Assurance (OECA) temporarily exercise its discretion not to enforce the 2.7 weight percent (wt%) oxygen requirement in Utah County, Utah, that is effective from November 1 through the end of February, while EPA completes the promulgation of a rule approving the State Implementation Plan (SIP) change.

In 1991, Utah County, Utah was designated nonattainment for the carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS). The Provo metropolitan area was reaffirmed as a "moderate" CO nonattainment area after the passage of the Clean Air Act (CAA) amendments of 1990 (*see* 56 Fed. Reg. 56694 (Nov. 6, 1991)). "Moderate" CO nonattainment areas were expected to attain the CO NAAQS no later than December 31, 1995. *See* 57 FR 13798, April 16, 1998. In an action effective November 19, 2002, EPA determined that the Provo metropolitan area had achieved CO NAAQS attainment levels by the December 31, 1995 deadline, but did not redesignate the Provo metropolitan area as an attainment area for CO, pending demonstration that the five criteria in section 107(d)(3)(E) of the CAA were satisfied, and pending full EPA approval of a maintenance plan for the area. *See* "Determination of Attainment for the [CO NAAQS] for Metropolitan Provo; State of Utah, and Approval of Revisions to the Oxygenated Gasoline Program," 67 Fed. Reg. 59165 (Sept. 20, 2002).

On April 1, 2004, the Governor of Utah submitted for EPA approval a revised SIP. This revision would eliminate the 2.7 wt% oxy fuel requirement for Utah County, retaining it as a contingency measure in the event that CO levels in the area exceed the NAAQS in the future.

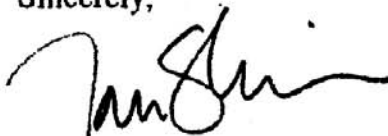
The State has demonstrated, through the EPA-required urban airshed dispersion model, UAM-AERO, and the CAL3QIIX intersection modeling, that an oxygenated gasoline program is no longer necessary in Utah County for attainment and maintenance of the CO standard. These air models, incorporating the elimination of the 2.7 wt% oxygen requirement, project that CO levels will not exceed, and in fact will remain well below CO NAAQS in metropolitan Provo up through and including the year 2015.¹ As a result of this and other data, EPA believes that Utah has submitted a federally-approvable revision to its SIP, and EPA has initiated a rulemaking that would approve the SIP change.

EPA's Region 8 and Office of Air and Radiation (OAR) have concluded that elimination of the oxygenate requirement would not result in adverse environmental effects. Therefore, EPA anticipates taking final action on this SIP revision within the next six months. In the meantime, however; and in the absence of regulatory relief, the 2.7 wt% oxy fuel requirement would be subject to federal enforcement, beginning November 1, 2004.

Accordingly, I am approving this "no action assurance" to bridge the gap between the current requirement for the wintertime 2.7 wt% oxygen requirement in Utah County, Utah, and EPA's finalization of a revised SIP making this change. This exercise of enforcement discretion is effective beginning November 1, 2004, and will terminate when EPA takes final action on the State of Utah's April 1, 2004 SIP revision request, or on March 1, 2005, whichever is earlier. In addition, this "no action assurance" may be revoked or modified by OECA at any time in its sole discretion.

If you have any questions, please call Erv Pickell, of the Air Enforcement Division, at (303) 236-9506.

Sincerely,



Thomas V. Skinner
Acting Assistant Administrator

cc: Jeffrey Holmstead
Assistant Administrator
Office of Air and Radiation
202-501-0986 (FAX)

¹ See "Carbon Monoxide Provisions for Provo," adopted by the Utah Air Quality Board, April 7, 2004, p. 23, available at <http://www.airquality.utah.gov/ADMIN/Outreach/publiccomment/pdf-files/ProvoCO-Plan.pdf>.

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